

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:

0 4 -- 0 1 1

2. STATE:

CA

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
September 1, 2004

5. TYPE OF PLAN MATERIAL (CHECK ONE):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

**42 CFR 433.36 (c), 1917 (a) and (b) of the
Social Security Act**

7. FEDERAL BUDGET IMPACT:

a. FFY **2004-05** **\$31,250** savings

b. FFY **2005-06** **\$31,250** savings

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.17-A, Page 1

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Attachment 4.17-A, Page 1

10. SUBJECT OF AMENDMENT:

Estate Recovery – Inclusion of annuities as part of a deceased Medi-Cal beneficiary's estate.

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED: **The governor's office
does not wish to review State Plan Amendments.**

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:

Stan Rosenstein

14. TITLE:

Deputy Director, Medical Care Services

15. DATE SUBMITTED:

10/27/04

16. RETURN TO:

**Department of Health Services
Attn: State Plan Coordinator
1501 Capitol Avenue, Suite 71.4143
Sacramento, CA 95814**

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

OCT 29 2004

18. DATE APPROVED:

December 3, 2004

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

September 1, 2004

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

Linda Minamoto

22. TITLE:

Associate Regional Administrator, Medical

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: CALIFORNIA

LIENS AND ADJUSTMENTS OR RECOVERIES

1. The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:

The beneficiary or his or her representative declare that the institutionalized individual cannot reasonably be expected to be discharged and return home. The beneficiary has been given a 30-day notice of the Department of Health Services' intent to impose a lien and has an opportunity for a hearing in accordance with state established hearing procedures. The notice to the beneficiary must include an explanation of the proposed lien and the effect on an individual's ownership interest.

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR §433.36(f):

A son or daughter of the individual residing in the home, who has resided there for at least two years immediately before the date of the individual's admission to the institution, has resided there on a continuous basis since that time, and can establish to the agency's satisfaction that he or she has been providing care which permitted the individual to reside at home rather than in an institution. (A statement from a physician indicating care provided will satisfy this provision.)

3. The State defines the terms below as follows:

- estate – For individuals who die on or after October 1, 1993, and for payments made on or after October 1, 1993, "estate" is defined as all real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including assets conveyed to a dependent, survivor, heir or assignee of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or annuities purchased on or after September 1, 2004.

For individuals who died prior to October 1, 1993, "estate" is defined according to the common law. Estate includes property which passes from a decedent to his or her heirs by way of a revocable inter vivos trust.

- individual's home – An individual's principal domicile.
- equity interest in the home – The value of property to which the decedent holds legal title or interest at the time of death.
- residing in the home for at least one or two years on a continuous basis – To live in the beneficiary's principal domicile, for an extended or prolonged period and without interruption or cessation, for one year in the case of a sibling and two years for a son or daughter.
- discharge from the medical institution and return home – To leave a medical facility and return to the individual's principal residence.
- lawfully residing – To live in a place for an extended or permanent period of time with the authorization of the owner(s), and within the bounds of law or public policy.